



## ***Texas Department of Insurance***

### ***Division of Workers' Compensation***

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

518-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

## ***MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION***

### ***GENERAL INFORMATION***

#### **Requestor Name and Address**

ELITE SURGICAL ASSISTANTS  
PO BOX 4247  
HOUSTON, TX 77210

#### **Respondent Name**

TEXAS MUTUAL INSURANCE CO

#### **Carrier's Austin Representative Box**

54

#### **MFDR Tracking Number**

M4-12-2505-01

### ***REQUESTOR'S POSITION SUMMARY***

**Requestor's Position Summary:** "Originally, when researching the insurance company pertaining to another patient we were told that all Texas Workers' Comp claims should be sent to ESIS, P O Box 6563, Scranton, PA. We sent the Workers' Comp claim to them. The claim was sent certified mail to ESIS on June 17, 2011. There was no response from ESIS. At that point we verified the insurance was with Texas Mutual Insurance and sent the claim to them. The claim to Texas Mutual was received September 8, 2011, per the certified receipt. We received a denial EOB on October 14, 2011, stating time limit had expired."

**Amount in Dispute:** \$3,299.24

### ***RESPONDENT'S POSITION SUMMARY***

**Respondent's Position Summary:** "The disputed date is 4/4/11. Texas Mutual received the bill 9/8/11. The requestor's explanation for the untimeliness does not meet the criteria for an exception at 408.0272 of the Labor Code."

**Response Submitted by:** Texas Mutual Insurance Co, 6210 E. Hwy 290, Austin, TX 78723

### ***SUMMARY OF FINDINGS***

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
04/04/2011	24342-80-RT	\$3,299.24	\$0.00

### ***FINDINGS AND DECISION***

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

#### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.20 sets out the procedures for health care providers to submit workers'

compensation medical bills for reimbursement.

3. 28 Texas Administrative Code §102.4 sets out the rules for Non-Commission Communications.
4. Texas Labor Code §408.027 sets out the rules for timely submission of a claim by a health care provider.
5. Texas Labor Code §408.0272 sets out the rules for certain exceptions for untimely submission of a claim by a health care provider.
6. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated 10/14/2011

- CAC-29 -The time limit for filing has expired.
- 731- Per 133.20 provider shall not submit a medical bill later than the 95<sup>th</sup> day after the date the service, for services on or after 9/1/05
- 928-HCP must submit documentation to support exception to timely filing of bill (408.0272). Notification of erroneous submission not included.

Explanation of benefits dated 11/28/2011

- CAC-193- Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- CAC-29- The time limit for filing has expired.
- 724-No additional payment after a reconsideration of services. For information call 1-800-937-6824
- 731- Per 133.20 provider shall not submit a medical bill later than the 95<sup>th</sup> day after the date the service, for services on or after 9/1/05
- 928- HCP must submit documentation to support exception to timely filing of bill (408.0272). Notification of erroneous submission not included.

### **Issues**

1. What is the timely filing deadline applicable to the medical bills for the services in dispute?
2. Did the requestor forfeit the right to reimbursement for the services in dispute?

### **Findings**

1. 28 Texas Administrative Code §133.20(b) states, in pertinent part, that, except as provided in Texas Labor Code §408.0272, "a health care provider shall not submit a medical bill later than the 95<sup>th</sup> day after the date the services are provided." The requestor states they originally sent bill to ESIS. Review of the requestor's documentation finds copies of U.S.P.S. Certified mail receipt showing the bill was submitted to ESIS on June 20, 2011. Therefore Texas Labor Code §408.0272 applies to the services in this dispute. Per Texas Labor Code §408.0272 (c) states, "...a health care provider who erroneously submits a claim for payment to an entity described by Subdivision (1) of that subsection forfeits the provider's right to reimbursement for that claim if the provider fails to submit the claim to the correct workers' compensation insurance carrier within 95 days after the date the provider is notified of the provider's erroneous submission of the claim." No documentation was found to support as to when the requestor was notified of their erroneous submission of the claim. Therefore, the Division is unable to determine if the bills were submitted to the correct insurance within 95 days after the date the requestor was notified of their erroneous submission.
2. Texas Labor Code §408.027(a) states, in pertinent part, that "Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment." 28 Texas Administrative Code §102.4(h) states that "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery, or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday." Review of the submitted information finds no documentation to support that a medical bill was submitted to the insurance carrier within 95 days from the date the services were provided. Therefore, pursuant to Texas Labor Code §408.027(a), the requestor in this medical fee dispute has forfeited the right to reimbursement due to untimely submission of the medical bill for the services in dispute.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that reimbursement is due. As a result, the amount ordered is \$0.00.

## ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

### Authorized Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
05/02/2012  
Date

### ***YOUR RIGHT TO REQUEST AN APPEAL***

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**